

CA Nos. 16-56057 & 16-56287

DATE OF DECISION: SEPTEMBER 28, 2018

JUDGES PAEZ AND IKUTA AND DISTRICT JUDGE VITALIANO

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MIKE SKIDMORE,
AS TRUSTEE FOR THE RANDY CRAIG WOLFE TRUST
Plaintiff-Appellant-Appellee

v.

LED ZEPPELIN, ET AL.,
Defendants-Appellees

AND

WARNER/CHAPPELL MUSIC, INC.,
Defendant-Appellee-Appellant

APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
HON. R. GARY KLAUSNER, DISTRICT JUDGE
CASE NO. 15-cv-03462-RGK (AGRx)

**MOTION OF 123 SONGWRITERS, COMPOSERS, MUSICIANS,
AND PRODUCERS, ALONG WITH NSAI AND SONA, FOR
LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF
DEFENDANTS FOR PANEL REHEARING AND REHEARING
EN BANC**

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I. INTRODUCTION

Pursuant to Federal Rule of Appellate Procedure 29(b) 123 Songwriters, Composers, Musicians, and Producers, hereby move for leave to file the concurrently-submitted amicus brief in support of Defendants-Appellees, Led Zeppelin, et al.

Federal Rule of Appellate Procedure 29(b) specifies that, during consideration of whether to grant rehearing, a nongovernmental amicus curiae “may file a brief only by leave of court.” FRAP 29(b). Ninth Circuit Rule 29-3 provides that “[a] motion for leave to file an amicus brief shall state that movant endeavored to obtain the consent of all parties to the filing of the brief before moving the Court for permission to file the proposed brief.” 9th Cir. Rule 29-3.

Amici sought consent of all parties to file their amicus curiae. Defendants-Appellees Led Zeppelin et al. and Warner/Chappell Music, Inc., have consented to the filing of this brief. However, Plaintiff Skidmore has refused to consent to the filing of this brief, indicating that the issues that Amici have identified are “settled areas of law.” Accordingly, Amici must seek leave to file their brief, and with this motion respectfully requests that leave be granted.

**II. INTEREST OF AMICUS CURIAE AND REASONS WHY THE
AMICUS BRIEF IS DESIRABLE AND WHY THE MATTERS ASSERTED
ARE RELEVANT TO THE DISPOSITION OF THIS CASE**

Amici consist of 123 songwriters, composers, musicians, and producers from the United States and other countries who create music in many different genres, which is protected under U.S. copyright law, and who could be adversely affected by the Ninth Circuit's decision in this case.

An amicus brief is desirable in this case because the brief demonstrates and elucidates the effect of the Ninth Circuit's decision on all songwriters, composers, musicians, and producers in the United States and around the world. Whereas the Brief filed by Defendants-Appellees focuses on the errors in the Ninth Circuit's initial decision, this Amicus will broaden its scope to include the decision's wide-ranging impact. Amici, whose music entertains and enriches the lives of countless people worldwide, will therefore undoubtedly be affected by, and consequently have a significant interest in, the outcome of this critically important case.

Moreover, these issues are directly relevant to the disposition of the case because of the importance of judicial clarification in determining whether common place elements in songs are protected by copyright, which if true, will create significant confusion for songwriters. Amici are concerned about the potential

adverse impact on their own creativity, on the creativity of future artists, and on the music industry in general, if the Panel's opinion in this case is allowed to stand.

III. CONCLUSION

Accordingly, Amici respectfully request leave of Court to file the accompanying amicus curiae brief in support of Defendants-Appellees.

Dated: November 5, 2018

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By: /s/ Edwin F. McPherson
EDWIN F. McPHERSON
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit, by using the appellate CM/ECF system on November 5, 2018.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: November 5, 2018

/s/ Edwin F. McPherson
EDWIN F. McPHERSON